

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

FELICIA HAIMDAS,	)	Case No.: 09-CV-2034
	)	
Plaintiff(s),	)	
vs.	)	MOTION FOR A STAY OF ORDER
	)	FOR RETURN OF SUBJECT CHILDREN
JAGMOHAN HAIMDAS,	)	PENDING OUTCOME OF APPEAL
	)	
Defendant(s).	)	ON SUBMISSION
	)	Rules 6, 65

TO THE HONORABLE COURT AND TO ALL PARTIES OF RECORD:

The undersigned moves for an Order forthwith staying the Court's Order of Return of the Subject Children pending appeal in this proceeding based upon the following recited pursuant to the penalties of perjury of the United States:

ORIENTATION

1. This is a federal question proceeding.
2. There is a final judgment in the form of an Order compelling return of the subject children to England.

*MEMORANDUM AND ORDER: The Court finds that respondent has not shown that any exception to mandatory return pursuant to the Hague Convention applies in this case. Accordingly, S.H. and A.H. must be returned to England. Petitioner is directed to file, on or before June 21, 2010, a proposed judgment with an itemized bill of fees and costs. On or before June 28, 2010, respondent may file any objection or exception along with sworn documentary proof establishing, based on respondent's financial position or otherwise, that ordering payment of such claimed expenses would be "clearly inappropriate." Any reply by petitioner must be filed on or before July 6, 2010. Any request for a fact hearing as to*

PETER C. LOMTEVAS, ESQ., P.C.  
Attorney at Law  
www.lomtevas.com

*any of these matters must be filed on or before June 30, 2010. Ordered by Judge Eric N. Vitaliano on 6/8/2010.*

3. The Court is in control of its own orders.

4. I sought consent from petitioner's counsel on June 10<sup>th</sup>, 2010 for a stay of the Court's order and counsel responded on June 15<sup>th</sup>, 2010 that they will not so consent.

5. The respondent is appealing all orders to the Second United States Circuit. As to the appeal, there is risk of irreparable injury and inadequacy of legal remedy.

6. Under the current Order of the Court, the subject children must return to England. Counsel for Petitioner already provided flight itineraries for the weekend of June 26<sup>th</sup> and July 3<sup>rd</sup>, 2010. Notice of appeal was filed June 22<sup>nd</sup>, 2010.

7. Moreover, the Order authorizes - and Petitioner has already filed for - fees and costs: these are substantial to the respondent because he is an ordinary middle class citizen supporting a household in Queens<sup>1</sup>.

8. This sequence of activity will render any appeal of the orders in this case moot. Moreover, if the Second United States Circuit finds for respondent, its orders may not apply to and be enforceable against citizens of England.

#### INJUNCTION

9. There is a likelihood of success on the merits because there are substantial questions regarding the main issues in this proceeding.

10. There is a threat of immediate and irreparable harm allowing the appeal to proceed while the children are returned

---

<sup>1</sup> Respondent is better able to pay for an appeal than reimburse petitioner \$40,000 in fees and costs.

to England within two weekends, and a stay is necessary to temporarily preserve the status quo.

11. The hardship to the respondent will be greater if he is deprived an appeal than if the subject children remain temporarily in New York City. The petitioner loses time with the children while respondent loses the ability to appeal if the children leave New York City. Hence, there is a public interest in the availability of appeals in cases involving children.

12. Time is of the essence and respondent must promptly obtain relief.

13. Injunctive relief will save respondent's precious resources while he assumes the task of appealing all orders in the proceeding.

WHEREFORE Defendant seeks an Order that grants:

1. A stay of the Court's Order returning the subject children pending decision on appeal of this proceeding;
2. Any other and further relief allowed by law.

Dated: Ozone Park, New York  
June 24<sup>th</sup>, 2010



PETER C. LOMTEVAS, ESQ. (PL-1366)  
101-54 106th Street  
Ozone Park, New York 11416  
718-849-5314  
fax: 718-849-0667

PROOF OF SERVICE

JONES DAY  
By LAURI SAWYER, ESQ.  
222 East 41<sup>st</sup> Street  
New York, N.Y. 10017  
(212) 326-3939  
By ECF and EMAIL

PETER C. LOMTEVAS, ESQ., P.C.  
Attorney at Law  
www.lomtevas.com